

MINUTES
OF
THE UTAH RADIATION CONTROL BOARD
January 7, 2005
Cannon Health Building
Conference Room 125
288 N 1460 West
Salt Lake City, Utah 84116

BOARD MEMBERS PRESENT

Karen S. Langley, M.S., Chair,
Stephen T. Nelson, Ph.D., Vice Chair,
Dianne R. Nielson, Ph.D., Director of DEQ
Dane Finerfrock, Executive Secretary
Kent J. Bradford, P.G.
Rod O. Julander, Ph.D.
Joseph K. Miner, M.D.
Gregory G. Oman, D.D.S., B.S.
Robert S. Pattison, B.S.
Dan L. Perry, B.S.
John W. Thomson, M.D.

BOARD MEMBERS ABSENT/EXCUSED

Keith C. Barnes, J.D.
Linda M. Kuse, M.S.

**DRC STAFF/OTHER DEQ MEMBERS
PRESENT**

Dean Henderson, DRC Staff
Craig Jones, DRC Staff
Loren B. Morton, DRC Staff
Fred Nelson, Attorney for DEQ
Ray Nelson, DRC Staff
Yoli Shropshire, DRC Staff
William J. Sinclair, Deputy Director

PUBLIC

Robert Baird, URS
Jason Groenewold, HEAL Utah
Joe Heckman, Envirocare
Ron Hochstein, IUC (USA)
Charles Judd, Cedar Mountain
Tye Rogers, Envirocare of Utah, Inc
James O'Neal, Private Citizen

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in DEQ Building #2, Room 101, 168 North 1950 West, Salt Lake City, Utah. Karen S. Langley, Chair, called the meeting to order at 2:00 p.m. She welcomed the Board Members and the public. Karen Langley indicated that if the public wished to address any items on the agenda they should sign the public sign-in sheet. Those desiring to comment would be given an opportunity to address their concerns during the comment period.

I. APPROVAL OF MINUTES (Board Action Item)

a. Approval of December 3, 2004, Minutes

Karen S. Langley, Chair, asked the Board Members if they had any corrections to the minutes of December 3, 2004. There were no requested corrections to the minutes from the Board Members.

MOTION MADE BY STEPHEN T. NELSON TO APPROVE THE MINUTES OF DECEMBER 3, 2005, SECONDED BY DAN L. PERRY.

MOTION CARRIED AND PASSED UNANIMOUSLY

II. RULES (Board Action Item)

a. R313-34, "Requirements for Irradiators," Five-Year Review, and Non-Substantive Changes – Presented by Craig Jones

Craig Jones addressed the Board about two rulemaking actions. He explained that both rulemaking actions affect the same section of the Radiation Control Rules. The first action involved filing a Five-Year Notice of Review and Statement of Continuation with the Division of Administration Rules. Craig explained that this action is necessary because the Utah Rulemaking Act requires an agency to review rules every five-years to determine a need for the rule, ensure the rule is not archaic, and determine if statutory authority still exists for writing the rule.

Section R313-34, "Requirements for Irradiators," was last reviewed on April 3, 2000. Craig Jones explained that DRC had been notified of the April 3, 2005, five-year review due date. He asked the Board Members to refer to the appropriate section of the Board packet, and he discussed the justification for the continuation of the rule. He also noted the DRC Staff and the Executive Secretary recommended that the rule must be continued. Craig explained their reasons.

Craig explained the second, rulemaking action. He told the Board that a previous change to the Radiation Control Act resulted in renumbering some sections of the Act. The renumbered Radiation Control Act was not

correctly referenced in R313-34-1, and he provided the Board with the appropriate change. He also said the correction could be processed as a non-substantive change.

Finally, Craig said the Executive Secretary recommended the Board's approval for the filing of the non-substantive change, and he also recommended the Board approve the filing of the five-year "Notice of Review and Statement of Continuation." Craig asked if there were anything he could do to clarify the two separate actions or to address any questions?

Questions by the Board Members followed:

Stephen T. Nelson, Vice Chairman, asked: "Would it be appropriate in the motion to both approve the filing of the rule and then, contingent upon its acceptance, do the filing of the 5-year review? Can we do that in one action, or are we to consider it twice?"

Karen S. Langley, Chair, responded: "I think we can do it once. Is that what you are proposing?"

Stephen T. Nelson said: "That is what I propose. It seems so obvious that we have to control irradiators, and it is such a trivial change to correctly cite the Radiation Control Act."

RECOMMENDATION:

The Executive Secretary recommends the Board's approval of the need to continue R313-34, *Requirements for Irradiators*; approve a proposed non-substantive change to Subsection R313-34-1; and direct the Executive Secretary to file, in a timely manner, the applicable notices with the Division of Administrative Rules.

MOTION MADE BY STEPHEN T. NELSON TO APPROVE BOTH THE FILING OF THE RULE AND UPON ITS ACCEPTANCE, AND FILE THE 5-YEAR REVIEW; SECONDED BY KENT J. BRADFORD

MOTION CARRIED AND PASSED UNANIMOUSLY

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

No Items

IV. X-RAY REGISTRATION/INSPECTION

No Items

V. RADIOACTIVE WASTE DISPOSAL (Board Information item)

a. Changes to Envirocare of Utah, Inc.'s Ownership and Executive Management - Dane L. Finerfrock

Dane L. Finerfrock reported on Envirocare's change in ownership to the Board. In the Board packet, he said, there is a copy of a letter that was received by the Division, dated December 23, 2004. The letter describes Mr. Khosrow B. Semnani's intent to sell Envirocare of Utah, Inc. to a group of investors headed by Mr. R. Steve Creamer. Dane said that he provided a copy of the letter for the Board Members in case they were unaware of the intent to transfer ownership. If the ownership transfer does occur, Mr. Creamer will be the President and Chief Executive Officer of Envirocare of Utah Inc.

Dane said the DRC's role in the process, under the radiation control rules, would be to provide assurances and written authorization for Mr. Creamer to lead the Radiation Safety Program. As part of the letter, Envirocare indicated the Radiation Safety Program and the staff who work in the Safety Program would remain the same. Dane said the DRC had issued a letter to Envirocare. The letter approved the "ownership transfer," under the prospective radiation safety guidelines.

Questions by the Board Members followed:

Dianne R. Nielson asked: "This is a letter that has come from Envirocare. Is there also a letter from Mr. Creamer's "group" making all of those commitments--instead of commitments Mr. Creamer's "group" will only potentially be carrying out?"

Dane L. Finerfrock responded: "No, the DRC has not received a letter from Mr. Creamer. Tye Rogers has been authorized to represent him in this transfer process. Tye Rogers, continues to be the Vice President for Permitting and Compliance for both Mr. Khosrow B. Semnani and Mr. R. Steve Creamer."

VI. URANIUM MILL TAILINGS UPDATE (Board Information item)

a. Briefing from International Uranium (USA) Corporation (IUC) – Loren Morton and Ron Hochstein

Loren Morton, Section Manager, reported to the DRC Board Members. He said he mentioned last month the DRC had a public comment on the Groundwater Discharge Permit for IUC (USA). Loren said the public comment period closed January 7, 2005, at 5:00 p.m. While the DRC has not received any public comments, there is plenty of time. There might be

something that comes in the mail in the next few days, and the Division will watch for those comments. Otherwise, the Division is close to completing the permit. Loren said he also wanted to introduce the topic of chloroform cleanup at IUC (USA). He said that he wanted to give the Board a “little bit” of history, and then he would introduce Mr. Ron Hochstein.

In 1999 the DRC asked IUC (USA) for access to do split-sampling of groundwater at the IUC facility. After some negotiations and preparations, the DRC did its first sampling event in May 1999. When the results came back, the DRC found one well with chloroform concentrations at 4,500 micrograms per liter, which is significantly higher than the State Ground Water Quality Standard of 70 micrograms. Then DRC instigated an enforcement action, and in August 1999 the DRC issued a groundwater, corrective-action order, under the authority of the Water Quality Board and the Groundwater Protection rules. The IUC began a process of investigations, and installed a number of wells and collected samples. Ron Hochstein will talk about IUC’s investigation in his presentation. The DRC has continued the split-sampling work. The DRC conducted four, split-sampling events between May of 1999 and September 2002. As of today, the DRC is still trying to “work out” completion of the investigation and corrective action plan.

Loren Morton introduced Ron Hochstein, President and CEO of IUC (USA) Corporation. Ron Hochstein traveled from Vancouver, Canada. Ron Hochstein reported on IUC’s groundwater contaminant investigation. Mr. Hochstein said there had been significant events over the past year that have impacted the IUC. Mr. Hochstein said he would also take the opportunity to give the Board a brief update on mill operations and interesting events “going on” in the industry.

Please see the attached slide presentation.

At the end of Mr. Hochstein’s presentation he thanked the Board for listening to his presentation, and he also thanked the Board and the Division for working with the IUC on the alternate feed program for the last five years. He thanked them for keeping the IUC’s infrastructure in tact. He said he could really see another “boom” in San Juan County mining. He said he would be happy to answer any questions on the chloroform or any other issues.

Questions by Board Members and the Public followed:

Dr. Joseph K. Miner asked: “Are there other contaminants, other than chloroform, tested which may also release radioactivity in the well water at IUC?”

Ron Hochstein responded: "In the temporary wells IUC conducts analysis for chloroform in the nitrates. The nitrates are "finger printing" the solutions. The temporary wells in the split sampling campaign have the only "real issues" that we have seen. The other split samplings are not in violation with contaminants."

Stephen T. Nelson, Vice Chair, asked: "Ron, can you or Loren tell me this: what is the saturated thickness of the aquifer?"

Loren Morton, Manager, responded: "Near the Northern Wildlife Ponds, the water-table is about 15 feet below ground surface and the bottom of the aquifer is at about 100 feet. It makes the saturated zone about 85 feet thick. South of the tailings-cell near well MW-3, the saturated thickness declines to about 5-10 feet."

Jason Groenewold, HEAL Utah, said he had three or four "quick questions" for Mr. Ron Hochstein. He asked: "Could you please clarify if the groundwater, contamination incident was the first time groundwater, split-sampling was done with the State?"

Ron Hochstein responded: "No, the split-sampling was done under the groundwater program for the NRC. The IUC was "looking at" other elements as part of the "Orderly Program." The sampling would have also been accomplished under the NRC program."

Jason Groenewold, HEAL Utah, asked: "Do you treat the water or do you simply pump it back into the cell unit?"

Ron Hochstein responded: "It is just simply pumped back into the cell."

Jason Groenewold, HEAL Utah, asked: "Are you testing groundwater in the White Mesa community or in any other communities to see if it has migrated into those areas?"

Ron Hochstein responded: "No, because IUC has sampled wells that are right below the contamination, and well-samples are showing no chloroform. Both wells near White Mesa are dry, no water. There is also no detection of chloroform."

Dianne R. Nielson said she would like to clarify the detection of contamination: "prior to the time chloroform was detected, the IUC was not doing any sampling under the State Programs. The IUC was conducting water-quality sampling under the NRC program."

Ron Hochstein responded: "That is correct. May 1999 was the first time the State conducted split sampling at the Mill. As Loren mentioned, we have completed four campaigns for every well on the site: not a select well--every well on the site."

Dianne R. Nielson asked: "Is the sampling that is currently being conducted by the IUC, also having splits taken by the State, or is the State initiating sampling that will be completed quarterly or in semi-annual sampling responsibilities? Is there a current sampling program where you are collecting water samples on a regular basis and submitting them to the State?"

Ron Hochstein responded: "Yes, with regard to chloroform. Yes, it is a quarterly sampling. We do it at both of the temporary-wells and submit the data to the State in a quarterly basis. In addition, while we are pumping we are submitting monthly reports on all of the water levels and additional reporting categories as well." The NRC sampling program was a quarterly sampling of different wells for different parameters; however, as Loren mentioned, we are now moving to the Groundwater Discharge Permit. The Groundwater Discharge Permit will include many more wells, and it will also include chloroform atrocity sites. We are in a transition period right now."

Dan L. Perry asked: "How many wells does the IUC have on the site?"

Ron Hochstein responded: "The IUC has temporary wells with the chloroform in them. There are twenty of them."

Dan L. Perry asked: "Those are shallow wells, and the IUC also has cell wells. Do you have deep monitoring wells going to the Navajo Sandstone?"

Ron Hochstein responded: "We have some deep wells going to the Navajo. Yes."

Dan L. Perry asked: "Are those monitored?"

Ron Hochstein responded: "The deep wells have been monitored as part of the State program. When we did split sampling, we also sampled from the deep wells."

VII. OTHER DIVISION ISSUES (Board information item)
No Items

VIII. PUBLIC COMMENT

Karen S. Langley said there were members of the public desiring to speak. She introduced and invited Mr. James O'Neal to address the Board and make his comments.

Comments by James O'Neal, a Private Citizen, as follows:

James O'Neal, a Private Citizen, asked the Board: "Has any activity been taken towards the comments that I made at the last Board meeting?"

Karen S. Langley, Chair, asked Mr. O'Neal if he was referring to the 911 changes on the B and C waste? She responded: "No. No direct action has been taken. This is an on-going consideration. It is being discussed, but I'm not aware that this is something that we have taken action on."

James O'Neal, Private Citizen, asked: "Has any consideration been taken about B and C type waste that is in Oakridge, Tennessee?"

Karen S. Langley, Chair, answered: "The Board has not taken action."

James O'Neal, Private Citizen, commented: "That is all I needed to know. Thank you very much."

Comments by Jason Groenewold, HEAL Utah, as follows:

Jason Groenewold, HEAL Utah, asked: "My comment has to do more with a question in Item V. I was wondering about the explanation that Mr. Finerfrock gave. If you could elaborate just a little bit more about the review completed by the agency to determine whether or not Envirocare's new management has the "skill-set" and capability to handle radioactive waste."

Does the Division look at past performance in other areas; for example, a syncrete project or a failed dam? Are those the kinds of things the Division reviews for past performance? In addition, is it "just simply" having enough money? Have you been given access to who the investors are, and what kind of financial backing is in place for the long-term management of this facility?"

Dane L. Finerfrock responded: "Let me start with your "last-part, first." The irrevocable "Letter of Credit" is currently in place. The Division was informed by Mr. Creamer that Wells Fargo Bank will continue to issue the irrevocable "Letter of Credit." That will be expected when Envirocare's "ship transfer" does occur."

The “Standby Trust Agreement,” which discusses where the monies for the “Letter of Credit” will be in the event they are needed, will also be modified by Envirocare of Utah. There is also a “business change” currently in process for Envirocare of Utah, Inc. Under the Utah business organization practices, Envirocare will become known as Envirocare of Utah Limited Liability Corporation (LLC); consequently, there is a change in the name of the company. And again, the only management change that will be made, at this time, is Mr. R. Steve Creamer will become the President and Chief Executive Officer of the Company. The Division’s review of Envirocare’s management change is guided by regulatory procedures provided by the NRC. In the NRC’s regulatory procedures, the new owner must describe the kind of business issues we have discussed. It does not require them to disclose their financial capabilities. It does not require the DRC to look at prior business history or at whatever involvement this individual might have had in other projects. Again, we are interested in the radiation safety program, and the NRC’s regulatory procedures require discussion and commitment for the radiation safety program. As I have said, Mr. Creamer has indicated the current radiation program will be retained. There will be no changes to it. The staff who implement the safety program will be the same. There will not be any changes to Envirocare’s safety program.”

Jason Groenewold, HEAL Utah, asked: “Is your decision/review/ determination open for public comment and input? Or is that something done within the DRC?”

Dane L. Finerfrock, Executive Secretary, responded: “It is something that is done within the DRC.”

Comments by Charles Judd, President of Cedar Mountain Environmental:

Charles Judd, President of Cedar Mountain Environmental (CME), said: “I am, now, the current President of Cedar Mountain Environmental, and the Board has entertained a few discussions about CME. I want to introduce myself. CME is in the process of moving forward with an operation just north of Envirocare. We have completed the “siting criteria,” and we are moving forward with other projects.”

CME is “taking a little breather” during this transition phase. There are reports of things that CME might be doing, and what CME might not be doing. I want the Board to know the exact direction for CME is not “set in stone.” We are still looking at a lot of different options, as far as different waste and different processes that CME might consider. CME is considering different things that it might “take on” as a company. CME appreciates the Board’s efforts for the things that the Board must do “on the other side of the table.” It can be a challenge, and we appreciate it.”

IX. OTHER ISSUES

No Board Meeting in February 2005, Legislature In Session

**Next Board Meeting – March 4, 2005, DEQ Bldg #2, 168 North 1950 West,
Conference Room 101, Salt Lake City, Utah, 2:00 – 4:00 P.M.**

THE BOARD MEETING ADJOURNED AT 3:40 P.M.